

## **REMARKS/ARGUMENTS**

### **Introduction**

Receipt of the non-final Office Action mailed May 8, 2007 is acknowledged. A request for continued examination under 37 CFR 1.1114 was filed after final rejection prompting the current Office Action. In the Office Action dated May 8, 2007, the Examiner withdrew the objection to claim 10 as well as all rejections under 35 U.S.C. §102 and specific rejections under §103. The claims presented for reconsideration are claims 1-4, 6-9, 11-13, and 15-19. Entry of this amendment and favorable reconsideration are earnestly solicited.

### **Election/Restrictions**

Applicants reserve the right to prosecute the subject matter of claim 14 by way of a divisional application or rejoinder under the In re Ochiai guidelines.

### **Claim Objections**

Claim 13 and 17 were objected to for containing the term “shined” instead of the term “shirred.” In response, Applicant amends claims 13 and 17 to correct this typographical error inadvertently introduced in the last response.

### **Rejection of claims 1-4, 6-12, 15 and 17-19 - 35 U.S.C § 103(a)**

Claims 1-4, 6-12, 15 and 17-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hammer et al. in view of Borodaev et al. With regards, to claims 1 and 12, the Examiner contends that it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to substitute Hammer's unsaturated carboxylic acid with the  $\alpha,\beta$ -ethylenically unsaturated carboxylic acid as taught by Borodaev in order to provide a film with good mechanical properties. With regards to claims 2-4, the Examiner contends that Hammer teaches a casing having weight ratios of copolymer to cellulose that equate to that recited in the aforementioned claims. As to

claims 6-7, the Examiner contends that Hammer teaches a casing having a proportion of comonomer units less than 50 mol%/(30mol %) based on the sum of all monomer and comonomer units in the copolymer. Regarding claim 8, the Examiner contends Hammer teaches a casing comprising a fiber reinforcement. As to claim 9, the Examiner submits that Hammer teaches a casing with a hemp fiber paper as the fiber reinforcement. Regarding claim 11, the Examiner contends that Hammer teaches a casing wherein the copolymer is a mixture with the cellulose hydrate and comprises a layer on the outside of the fiber reinforcement. As to claim 12, the Examiner contends that Hammer teaches a casing wherein the copolymer is present in an amount sufficient to inhibit or suppress mold growth. Regarding claim 15, the Examiner contends that Hammer teaches an artificial sausage comprising a food casing. As to claim 17, the Examiner contends that Hammer teaches a shirred stick. Regarding claim 18, the Examiner submits that Hammer teaches a food casing comprising cellulose and an additive wherein the presence of the additive is an amount sufficient to achieve lower permeation while water vapor permeability is preserved. Lastly, in regards to claim 19, the Examiner contends that Hammer teaches a casing wherein the additive comprises polyvinylpyrrolidone. These rejections are respectfully traversed.

Applicant submits that claim 1 and all currently rejected dependent claims (2-4, 6-12, 15 and 17) are not obvious under 35 U.S.C. §103(a). First, Applicant notes that the Examiner has acknowledged that Hammer does not disclose a copolymer of vinylpyrrolidone in which the comonomer is selected from the group consisting of vinyl alkanoate, vinyl alkyl ether, conjugated alkadiene, acrylamide and a  $\alpha,\beta$ -unsaturated carboxylic acid. In fact, Applicant notes that Hammer does not disclose any  $\alpha,\beta$ -unsaturated carboxylic acids. Only esters and amides of such acids are disclosed (see column 5, lines 23-25).

Secondly, Applicant notes that in the current Office Action dated May 8, 2007, the Examiner has cited Borodaev as a teaching of a casing comprising a copolymer with units of vinyl pyrrolidone and a  $\alpha,\beta$ -unsaturated carboxylic acid. Applicant respectfully points out that such a teaching is not, in fact, disclosed on p. 4, I. 21 - 25, of Borodaev.

Instead, Borodaev states that the hydrophilic compound is selected from homo- and/or copolymers of vinylpyrrolidone, vinylalcohol, alkyloxazoline, polyacrylamide, cellulose ethers, alkylene glycols, polyalkylene oxides, acrylic acid, methacrylic acid, vinyl alcohol ethers and vinyl alcohol esters. At best, Borodaev teaches copolymers of vinylpyrrolidone and copolymers of acrylic acid and of methacrylic acid. Copolymers with units of vinylpyrrolidone and (meth)acrylic acid are not disclosed. Furthermore, it should be noted that some of the compounds are not even monomeric (e.g. polyacrylamide and cellulose ethers). The compounds listed thus cannot be used interchangeably and cannot be combined at will to produce a copolymer. Still further, Borodaev thus does not cure the deficiencies of Hammer. As such, Applicant respectfully submits that the arguments presented by the Examiner are not sufficient to sustain a rejection under 35 U.S.C. §103(a).

With specific regards to the Examiner's position regarding claims 2-4 and 6-7, Applicant agrees that Hammer, in fact, teaches a ratio of copolymer to cellulose which overlaps with the ranges indicated in present claims 2 to 4. However, the copolymers employed in claims 24 and 6-7 are not disclosed by Hammer or Borodaev. As such, Applicant respectfully requests the Examiner withdraw the rejection of claims 2 - 4 and 6-7 under 35 U.S.C. §103(a) because these claims cannot be rendered obvious by the suggested combination of these references.

As to the Examiner's contentions regarding claims 18-19, Applicant notes that Hammer describes using alginic acid and/or alginate to achieve lower permeation at column 8, lines 15-38 but makes no mention of preserving water vapor permeability. In contrast, claim 18 recites introducing an additive, such as polyvinylpyrrolidone (claim 19), to lower permeation and maintain water vapor permeability. Water vapor permeability and permeation are two entirely different physical properties. The achievement of such a combination of desirable physical properties is not described by Hammer. As such, Applicant respectfully contends that the Examiner's rejection of claims 18-19 under 35 U.S.C. §103(a) is improper and should be withdrawn.

**Rejection of claims 13 and 16 - 35 U.S.C § 103(a)**

Claims 13 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hammer in view of Borodaev and Crevasse. As to claim 13, the Examiner contends Hammer and Borodaev teach the casing and Hammer teaches the casing wherein the casing is shirred to form a shirred stick. The Examiner, however, admits that each reference fails to disclose the length of from 5 to 100 meters. The Examiner, instead, contends that Crevasse teaches a length of from 5 to 100 meters. Upon this premise, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to modify Hammer's casing with a shirred stick from 5 to 100 m as allegedly taught by Crevasse in order to provide encasing for a large number of sausages. As to claim 16, the Examiner submits that Hammer and Borodaev teach the casing but fail to expressly disclose a sausage comprising a food casing. The Examiner further contends that Crevasse, however, teaches a dry sausage comprising a food casing for the purpose of providing encased sausage with long shelf life. Upon this premise, the Examiner contends it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Hammer's casing with encased sausage as taught by Crevasse in order to provide encased sausage having a long shelf life. The Applicant respectfully traverses this rejection.

The Examiner has relied upon Crevasse as a showing of a tubular food casing long enough for encasing a large number of sausages, which has been compacted to form a shirred stick. As set forth above, Applicant respectfully submits that because the casing set forth in present claim 1 is not rendered obvious by the combination of the teachings of Hammer and Borodaev, a shirred stick as claimed in present claim 13 as well as the sausage in the food casing as claimed in present claim 16 cannot be obvious.

**CONCLUSION**

Applicant believes the current claims are in condition for allowance. However, any comments or questions concerning the application can be directed to the undersigned at the telephone number given below.

Applicant does not believe any fees are due at this, however, the Commissioner is authorized to charge any deficiency in fees or credit any overpayments to Deposit Account No. 09-0528 (Docket #: P179 1130.1).

Respectfully submitted,

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